HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 157 of 2006 (M/S)
Harpreet Singh S/o Trilok Singh & another

VS

Principal, Nancy Convent, Jeolikot
District Nainital and others.

Approved for reporting

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~~Not approved for reporting~~

Date of decision: 06.07.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.157 (MS) OF 2006

1. Harpreet Singh, aged about 20 years,
   S/o Sri Trilok Singh,
   Permanent resident of 71, Janak Park,
   Hari Nagar, Clock Tower,
   New Delhi.
2. Kamal Preet Singh, aged about 18 years,
   S/o Sri Trilok Singh,
   Permanent resident of 71, Janak Park,
   Hari Nagar Clock tower,
   New Delhi. .....Petitioners.

Versus

1. Principal,
   Nancy Convent, Jeolikot,
   District- Nainital.
2. Sri I.P. Singh,
   Director Nancy Convent,
   Jeolikot, District- Nainital.
3. Smt. Manju Singh, Chairperson,
   Nancy Convent, Jeolikot,
   District-Nainital.
4. Central Board of Secondary Education.
   New Delhi, through Secretary. .....Respondents.

Dated: 06.07.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Vijay Bhatt, Advocate for the petitioner, Sri M.S. Pal, Sr. Advocate, assisted by Sri D.N. Sharma, Advocate

for the respondents no. 1 to 3 and Sri Gopal Narain, Advocate for the respondents no. 4.

Principal Nancy Convent Jeolikot, Sri Vivek Srivastava, Chairperson Smt. Manju Singh and Trustee Sri R.S. Dayal is present today.

By the present writ petition, the petitioners have prayed for a writ of mandamus commanding the respondents to issue Admit Cards for the Class-12 Board Examination to the petitioners and to allow them to appear in examination.

Briefly stated, the petitioners are Boarders students of Class XII in the Nancy Convent, Jeolikot, District Nainital a school affiliated to the Central Board of Secondary Education, New Delhi. The petitioner no. 1 took admission in Class IV as a boarder in the academic year 1996-97 and petitioner no.2 took admission in Class III as a border in the same year and the requisite fee was deposited.

Petitioners have stated that in the year, 2004, the demand of fee was made from the petitioners, which was too exorbitant as such on failing to pay, the School Authority as well as the signatory board has failed to issue the Admit Cards as well as other necessary documents in favour of the petitioners. As a result of which no dues certificate have been issued in favour of the petitioners.

The grievance of the petitioners was that the examination of Class-12 Board Examination is scheduled to be held from 1st March, 2005 and both the petitioners had to appear in the said examination, but the Admit Cards by the respondents have not been issued on account of the fact that no dues certificate have not been obtained by the petitioners. The petitioners have approached this Court by filing a writ petition.

A counter affidavit had been filed by the respondents and in the counter affidavit, it has been stated that the petitioners have not cleared the dues and therefore, no dues certificate, cannot be issued and the Admit Cards also have not been issued to them by Board.

In order to resolve the controversy, this Court has appointed Sri S.K. Jain, Advocate as an arbitrator under section 89 of the Code of Civil Procedure, which is an alternative dispute of redressal as substituted by the Code of Civil Procedure. The Arbitrator has stated the proceedings as will appear from the report handed over by Sri S.K. Jain, Advocate.

As will appear from the report, petitioners as well as the Principal Nancy Convent Jeolikot as well as the Director as well as the Chairperson have participated during the arbitration. Relevant finding of the Arbitrator is quoted below:-

"Whereas I, S.K. Jain Advocate has been appointed as sole Arbitrator by the Hon'ble Court vide order dated 12-06-2006 to arbitrate and decide the dispute between the parties. In compliance of the order, the Arbitral Proceedings commences on 13.06.2006. The notices were issued to the parties. The parties appeared in Arbitral Proceedings through their advocates on 18-06-2006, 25-06-2006, 26-06-2006, 30-06-2000, 02-07-2006 and 03-07-2006.

The sole question of dispute was whether there is any dues amounting to Rs. 2,30,922/- of respondents due on the petitioners.

Without going into the merits of the case I tried to settle the dispute between the parties by compromise. In which I succeeded. The good sense prevailed to the parties due to my since advise and efforts both the parties entered into the

compromise on 03-07-2006. On the same day the said compromise was filed before me and it has taken on record. The said compromise is the part of may order/award. The matter is settled and decided in terms of the compromise."

The arbitrator, therefore, has concluded that both the parties have entered into compromise on 3rd July, 2006, which is a part of the award and the matter has been decided in terms of the compromise.

Since the matter has already been compromised, therefore, the writ petition stands allowed in terms of the compromise with cost of Rs. 1100/-, which shall be paid to the Arbitrator by both the parties.

Writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

06.07.2006

Rathour